



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

HAVERHILL COOPERATIVE EDUCATION
ASSOCIATION, NEA/NH

v.

HAVERHILL COOPERATIVE SCHOOL BOARD and
NORMAN H. MULLEN in his capacity as
Superintendent

CASE NO. T-0232:6

DECISION NO. 84-27

APPEARANCES

Representing the Haverhill Cooperative Education Association, NEA/NH

John Fessenden, UniServ Director
Barry LeBarron, President of the Education Association

Representing the Haverhill Cooperative School Board

Stephen Samaha, Esq.
Norman H. Mullen, Supt.

BACKGROUND

On December 20, 1983, the Haverhill Cooperative Education Association, NEA/NH (Association) requested a Cease and Desist Order under RSA 273-A:6, III, charging that the Haverhill Cooperative School Board (Board) had failed to comply with a PELRB order dated September 16, 1981, Decision No. 81-35 in Case No. T-0232:3.

The Association charged that "Superintendent Mullen had posted a notice in the schools threatening school personnel with possible disciplinary action". When requested to remove said notice the Superintendent refused. A notice was posted, dated October 26, 1983, affirming a Board policy of 1977 "with certain changes". The changes appeared to have the effect of limiting the Association representative's contact with teachers to lunch periods only and not simply to "non-teaching" times.

In addition, the Association requested the removal of a letter of

reprimand it said had been given to the Association's President as a result of this dispute.

The PELRB issued the requested Cease and Desist Order on January 5, 1984, ordering the removal of the October 26, 1983, letter and instructing the Board that "such posting and denial of access to teachers during non-teaching times is contrary to PELRB Decision No. 81-35, dated September 16, 1981".

The PELRB set a hearing on the matter for Thursday, February 2, 1984, and said hearing took place at the PELRB office in Concord, N.H. with all parties represented.

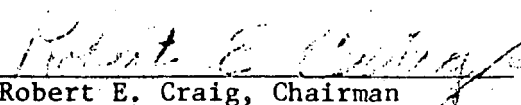
FINDINGS OF FACT AND RULINGS OF LAW

At hearing extensive testimony and argument were heard over the appropriateness of referring to "non-teaching" periods (since not all persons were teachers) as "free" periods since much of this time, except for lunch period (if a person has a lunch period), is intended for class preparation and is not in that sense "free" time. The School Board argued that the only really "free time" in conformity with PELRB Decision No. 81-35 is, therefore, the lunch period, not the "preparation periods" which are working times, during which visits would be "disruptive" of the basic educational goal of the school.

The PELRB does not find that any evidence of disruption of classes or of class related work has been presented and concludes that the Association representative should have access under RSA 273-A:11 (b) which confers certain rights upon duly certified representatives, and that this means when "they are not actually engaged in teaching", (#81-35) provided no disruption of the educational purpose of the school takes place. Insofar as current School Board policy seeks to restrain Association representatives it is contrary to PELRB Decision No. 81-35.

DECISION AND ORDER

- (A) PELRB Decision No. 81-35 and No. 84-04 are affirmed, and;
- (B) PELRB finds that the President of the Association was within his rights under RSA 273-A in meeting with his Association representative and ORDERS the letter of reprimand removed from his personnel file, and;
- (C) ORDERS the School Board and the Association to cooperate in facilitating access of the Association's representative to teachers when they are not actually engaged in teaching, always guarding against disruption of the educational mission of the school.


Robert E. Craig, Chairman

Signed this 12th day of April, 1984.

By unanimous vote. Chairman Robert E. Craig presiding. Members Russell F. Hilliard and Richard W. Roulx present and voting. Also present, Evelyn C. LeBrun, Executive Director.